

MONTANA LEGISLATIVE HISTORY

Chapter 259 19 93

Bill H _____ S 173

Original bill & history / c

H. Committee on Judiciary

Hearing Date(s) 3/5 / c

3/12 / c

_____ c

_____ c

Date Out _____ c

S. Committee on Judiciary

Hearing Date(s) 2/2 / c

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_____ c

_____ c

Did this bill originate in an interim committee? _____ Yes / No

Committee _____

Report _____

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INDIVIDUAL PRIVACY CLEARLY EXCEED THE MERITS OF PUBLIC DISCLOSURE

1/16	INTRODUCED		
1/16	REFERRED TO NATURAL RESOURCES		
1/16	FIRST READING		
1/27	HEARING		
2/15	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/16	2ND READING PASSED	30	15
2/17	3RD READING PASSED	38	11
	TRANSMITTED TO HOUSE		
2/23	REFERRED TO NATURAL RESOURCES		
2/23	FIRST READING		
3/12	HEARING		
3/15	TABLED IN COMMITTEE		

SB 172 INTRODUCED BY DEVLIN, ET AL.

REVISE THE EXCEPTIONS TO THE GROUND WATER PERMIT REQUIREMENTS

1/16	INTRODUCED		
1/16	REFERRED TO NATURAL RESOURCES		
1/16	FIRST READING		
1/16	FISCAL NOTE REQUESTED		
1/23	FISCAL NOTE RECEIVED		
1/26	FISCAL NOTE PRINTED		
2/05	HEARING		
2/10	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/11	2ND READING PASSED	49	0
2/12	3RD READING PASSED	50	0
	TRANSMITTED TO HOUSE		
2/23	REFERRED TO NATURAL RESOURCES		
2/23	FIRST READING		
3/26	HEARING		
3/29	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/30	2ND READING CONCUR MOTION FAILED	36	62

SB 173 INTRODUCED BY BARTLETT, ET AL.

PROVIDE PROCEDURE FOR ALTERNATE RETIREMENT BENEFIT PAYEE UNDER FAMILY LAW ORDER

1/16	INTRODUCED		
1/16	REFERRED TO JUDICIARY		
1/16	FIRST READING		
2/02	HEARING		
2/04	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/06	2ND READING PASSED	48	0
2/08	3RD READING PASSED	50	0
	TRANSMITTED TO HOUSE		
2/09	REFERRED TO JUDICIARY		
2/09	FIRST READING		
3/05	HEARING		
3/12	COMMITTEE REPORT—BILL CONCURRED		
3/15	2ND READING CONCURRED	80	14
3/18	3RD READING CONCURRED	83	15
	RETURNED TO SENATE		
3/24	SIGNED BY PRESIDENT		
3/25	SIGNED BY SPEAKER		
3/30	TRANSMITTED TO GOVERNOR		
3/31	SIGNED BY GOVERNOR		

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Senate BILL NO. *173*
INTRODUCED BY *Capitol*
By Request of the Public Employees' Retirement Board
AND THE TEACHERS' RETIREMENT BOARD

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE
PAYMENT OF PUBLIC RETIREMENT BENEFITS TO ALTERNATE PAYEES
PURSUANT TO FAMILY LAW ORDERS; AND AMENDING SECTIONS
19-3-105, 19-4-706, 19-5-704, 19-6-705, 19-7-705, 19-8-805,
19-9-1006, AND 19-13-1004, MCA."

STATEMENT OF INTENT

A statement of intent is required for this bill because
[section 1] grants rulemaking authority to the public
employees' retirement board or the teachers' retirement
board. [Section 1] provides for the assignment and payment
of retirement system benefits to alternate payees but
differs from federal qualified domestic relations orders.
Alternate payees will not be eligible to receive payments
that could not otherwise be paid by the retirement system.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1.** Alternate payees -- family law
orders. (1) A participant in a retirement system may have
the participant's rights modified or recognized by a family

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law order.

(2) For purposes of this section:

(a) "participant" means a member or an actual or
potential beneficiary, survivor, or contingent annuitant of
a retirement system designated pursuant to Title 19, chapter
3, 4, 5, 6, 7, 8, 9, 12, or 13 [this title]; and

(b) "family law order" means a judgment, decree, or
order of a court of competent jurisdiction concerning child
support, parental support, spousal maintenance, or marital
property rights that includes a transfer of all or a portion
of a participant's payment rights in a retirement system to
an alternate payee in compliance with this section.

(3) A family law order must identify an alternate payee
by full name, current address, and social security number.
An alternate payee's rights and interests granted in
compliance with this section are not subject to assignment,
execution, garnishment, attachment, or other process. An
alternate payee's rights or interests may be modified only
by a family law order amending the family law order that
established the right or interest.

(4) A family law order may not require:

(a) a type or form of benefit, option, or payment not
available to the affected participant under the appropriate
retirement system; or

(b) an amount or duration of payment greater than that

1 available to a participant under the appropriate retirement
2 system.

3 (5) A family law order may only provide for payment to
4 an alternate payee as follows:

5 (a) Service retirement benefit payments or withdrawals
6 of member contributions may be apportioned by directing
7 payment of a percentage of the amount payable or payment of
8 a fixed amount of no more than the amount payable to the
9 participant.

10 (b) The maximum amount of disability or survivorship
11 benefits that may be apportioned to alternate payees is the
12 monthly benefit amount that would have been payable on the
13 date of termination of service if the member had retired
14 without disability or death.

15 (c) Retirement benefit adjustments for which a
16 participant is eligible after retirement may be apportioned
17 only if existing benefit payments are apportioned. The
18 adjustments must be apportioned in the same ratio as
19 existing benefit payments.

20 (d) Payments must be limited to the life of the
21 appropriate participant. The duration of payments to an
22 alternate payee may be further limited only to a specified
23 maximum time, the life of the alternate payee, or the life
24 of a specified participant. Payments to an alternate payee
25 may be limited to a specific amount per month if the number

1 of payments is specified. The alternate payee's rights and
2 interests survive the alternate payee's death and may be
3 transferred by inheritance.

4 (e) The participant may be required to choose a
5 specified form of benefit payment or designate a beneficiary
6 or contingent annuitant if the retirement system allows for
7 that option.

8 (6) The board may assess a participant or an alternate
9 payee for all costs of reviewing and administering a family
10 law order, including reasonable attorney fees. The board may
11 adopt rules to implement this section.

12 **Section 2.** Section 19-3-105, MCA, is amended to read:

13 "19-3-105. **Exemption from taxes and legal process.** The
14 Except as provided in [section 1], the right of a person to
15 a retirement allowance or any other benefit under this
16 chapter and the money in the fund created under this chapter
17 are not:

18 (1) subject to execution, garnishment, attachment, or
19 any other process;

20 (2) subject to state, county, or municipal taxes except
21 for:

22 (a) a retirement allowance received in excess of \$3,600
23 or adjusted by an amount determined pursuant to
24 15-30-111(2)(c)(ii); or

25 (b) a refund paid under 19-3-703 of a member's

contributions picked up by an employer after June 30, 1985, as provided in 19-3-701; or

(3) assignable except as in this chapter specifically provided."

Section 3. Section 19-4-706, MCA, is amended to read:

"19-4-706. **Exemption from taxation and legal process.** The Except as provided in [section 1], the pensions, annuities, or any other benefits accrued or accruing to any person under the provisions of the retirement system and the accumulated contributions and cash and securities in the various funds of the retirement system are:

(1) exempted from any state, county, or municipal tax of the state of Montana except for:

(a) a retirement allowance received in excess of \$3,600 or adjusted by an amount determined pursuant to 15-30-111(2)(c)(ii); or

(b) a withdrawal paid under 19-4-603 of a member's contributions picked up by an employer after June 30, 1985, as provided in 19-4-602;

(2) not subject to execution, garnishment, attachment by trustee process or otherwise, in law or equity, or any other process; and

(3) unassignable except as specifically provided in this chapter."

Section 4. Section 19-5-704, MCA, is amended to read:

"19-5-704. **Exemption from taxes and legal process -- exception.** (1) Money Except as provided in [section 1], money received or to be paid as a member's annuity, state annuity, or return of deductions or the right of any of these except refunds paid under 19-5-403 of the member's contributions picked up by an employer after June 30, 1991, as provided in 19-5-402, is exempt from levy, sale, garnishment, attachment, or any other process and is unassignable except as specifically provided in 19-5-705.

(2) The first \$3,600 or the amount determined pursuant to 15-30-111(2)(c)(ii) received under this chapter is exempt from state, county, or municipal taxation."

Section 5. Section 19-6-705, MCA, is amended to read:

"19-6-705. **Exemption from taxes and legal process.** Any Except as provided in [section 1], money received or to be paid as a member's annuity, state annuity, or return of deductions or the right of any of these is:

(1) exempt from any state, county, or municipal tax except for:

(a) a retirement allowance received in excess of \$3,600 or adjusted by an amount determined pursuant to 15-30-111(2)(c)(ii); or

(b) a refund paid under 19-6-403 of a member's contributions picked up by an employer after June 30, 1985, as provided in 19-6-402;

(2) exempt from levy, sale, garnishment, attachment, or any other process; and

(3) unassignable except as specifically provided in 19-6-706."

Section 6. Section 19-7-705, MCA, is amended to read:

"19-7-705. Exemption from taxes and legal process. Any Except as provided in [section 1], money received or to be paid as a member's annuity, state annuity, or return of deductions or the right of any of these is:

(1) exempt from any state, county, or municipal tax except for:

(a) a retirement allowance received in excess of \$3,600 or adjusted by an amount determined pursuant to 15-30-111(2)(c)(ii); or

(b) a refund paid under 19-7-304 of a member's contributions picked up by an employer after June 30, 1985, as provided in 19-7-403;

(2) exempt from levy, sale, garnishment, attachment, or any other process; and

(3) unassignable except as specifically provided in 19-7-706."

Section 7. Section 19-8-805, MCA, is amended to read:

"19-8-805. Exemption from taxes and legal process. Any Except as provided in [section 1], money received or to be paid as a member's annuity, state annuity, or return of

deductions or the right of any of these is:

(1) exempt from any state, county, or municipal tax except for:

(a) a retirement allowance received in excess of \$3,600 or adjusted by an amount determined pursuant to 15-30-111(2)(c)(ii); or

(b) a refund paid under 19-8-503 of the member's contributions picked up by an employer after June 30, 1985, as provided in 19-8-502;

(2) exempt from levy, sale, garnishment, attachment, or any other process; and

(3) unassignable except as specifically provided in 19-8-806."

Section 8. Section 19-9-1006, MCA, is amended to read:

"19-9-1006. Protection from legal process -- nonassignability. Except as provided in [section 1] and this chapter, the benefits payable hereunder under this chapter are not subject to the claims of any creditor of a member, beneficiary, or survivor or to attachment, garnishment, or other legal or equitable process and no a member, beneficiary, or survivor may not alienate, anticipate, commute, pledge, encumber, assign, or sell any of such the benefits."

Section 9. Section 19-13-1004, MCA, is amended to read:

"19-13-1004. Protection from legal process --

1 unassignability. The Except as provided in [section 1], the
2 benefits payable under this chapter are not subject to the
3 claims of any creditor of a member, beneficiary, or survivor
4 or to attachment, garnishment, or other legal or equitable
5 process. No A member, beneficiary, or survivor may not
6 alienate, anticipate, commute, pledge, encumber, assign, or
7 sell any of such the benefits."

8 NEW SECTION. **Section 10.** Codification instruction.

9 [Section 1] is intended to be codified as an integral part
10 of Title 19, chapter 3, 4, 5, 6, 7, 8, 9, 12, and 13, and
11 the provisions of Title 19, chapter 3, 4, 5, 6, 7, 8, 9, 12,
12 and 13, apply to [section 1].

13 NEW SECTION. **Section 11.** Coordination instruction. If

14 Bill No. [LC 0246] is passed and approved, [section
15 1] is to be codified only as an integral part of the general
16 retirement provisions and the bracketed language in [section
17 1] replaces the references to the enumerated chapters of
18 Title 19.

-End-

safety and 300 instructors for bow and archery safety.

Senator Doherty asked Mr. Lane how many children could not get into the program. Mr. Lane said there has not been a problem with having to turn away children. Youngsters need instructions in hunter safety before obtaining a hunting license.

Senator Doherty asked Mr. Lane if a youngster could obtain a hunting license after receiving a certificate from a hunter education course other than the Department of Fish, Wildlife, and Games program. Mr. Lane said no.

Closing by Sponsor:

Senator Jacobson said SB 224 is a good bill and asked the Committee to consider SB 224.

HEARING ON SB 173

Opening Statement by Sponsor:

Senator Bartlett, District 23, said SB 173 is intended to allow public employees of retirement boards and the teachers retirement boards to recognize and implement certain court orders defined in SB 173 as family law orders. At the present time, the retirement system benefits and contributions are not subject to execution or other legal processes. SB 173 would accept contributions and benefits from court orders on marital property rights, child support, parental support, and spousal maintenance. Retirement contribution and benefits are now considered assets of a retirement system member, when the member is involved in a divorce action. Under existing law, those assets cannot be divided. In cases of child support, spousal support, or indigent parent support, a court order can only be enforced against the individual member, not by access to a members retirement benefit. SB 173 allows a division of the benefits and direct access under a family law order. Payment would only be made at time the member withdraws his or her contribution, or begins receiving benefits from the retirement system. SB 173 was introduced at the request of retirement system boards and was written to minimize the administration necessary to comply with family law orders. SB 173 includes a provision that would allow the board to charge for costs incurred to the member or to the alternate payee identified in the family law order. Senator Bartlett said there would be no actuarial impact on the retirement systems. Senator Bartlett explained a proposed amendment. (Exhibit #2)

Proponents' Testimony:

David L. Senn, Executive Director of the Teachers' Retirement Board, read from prepared testimony. (Exhibit #3)

Linda King, Public Employees Retirement Division, told the Committee that the Retirement Division has worked with the Teachers Retirement Board to come up with a simple, legal and cost effective method of splitting payments between a retirement system member and an alternate payee as the result of a family law order. Under SB 173, benefits could not be paid out until the member retires or the benefits are refunded. SB 173 would allow the retirement systems to make two payments with the benefits that are promised. That would protect the member from having to give up short term assets in a divorce, and provide for long term security. Ms. King urged support for SB 173.

Tom Bilodeau, Montana Education Association, supports SB 173.

Opponents' Testimony:

NONE

Questions From Committee Members and Responses:

Senator Halligan asked David Senn about splitting the benefits. Mr. Senn said the retirement systems would split the benefits when the member qualifies for the benefits.

Senator Towe asked Mr. Senn about the percentage of the benefits that would be distributed. Mr. Senn said under SB 173, the courts would make the determination as to what is fair and equitable distribution of the benefits.

Senator Doherty asked Senator Bartlett about tribal courts. Senator Bartlett said Title 40 would not include tribal courts, however those issues could still be ordered by another court. The retirement systems are attempting to be able to work with district courts in the State of Montana. Senator Bartlett told the Committee that orders from other courts can be filed with district courts so the division would not have to track down every order that may come from out of state or tribal courts.

Ms. King stated that the internal revenue code requires that the court order must come from a competent family relations court or domestic relations court to be accepted. Ms. King said the orders should be from Montana, to make sure the state courts know about the requirements for the family law orders.

Senator Grosfield asked Mr. Senn about payment of child support through retirement benefits. Mr. Senn said child support could be obtained by other sources, because retirement benefits could not be distributed until retirement.

Senator Towe asked Mr. Senn about the percentages used for distributing benefits. Mr. Senn said a formula should be used based on the number of years in a marriage in which the benefits were accrued.

Senator Crippen asked Mr. Senn if benefits were exempt from bankruptcy under present the law. Mr. Senn said yes..

Closing by Sponsor:

Senator Bartlett said the benefit of SB 173 is to open up additional action and negotiations in domestic relation cases.

EXECUTIVE ACTION ON SB 173

Motion/Vote:

Senator Halligan moved to AMEND SB 173. The motion CARRIED UNANIMOUSLY.

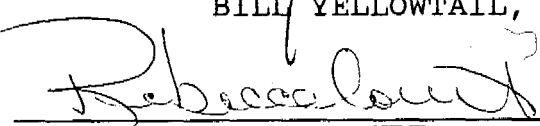
Motion/Vote:

Senator Halligan moved SB 173 DO PASS AS AMENDED. The motion CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment: 11:38 a.m.


BILL YELLOWTAIL, Chair


REBECCA COURT, Secretary

BY/rc

TESTIMONY - SB 173
Teachers' Retirement Board

Presented by: David L. Senn, Executive Director

"AN ACT PROVIDING FOR THE PAYMENT OF PUBLIC RETIREMENT BENEFITS TO ALTERNATE PAYEES PURSUANT TO FAMILY LAW ORDERS."

Currently retirement system member's contributions and benefits are unassignable either in law or equity and are not subject to execution, garnishment, attachment, or other legal process. However, courts in domestic relations cases, such as divorces consider these benefits as assets and income of the member and often try to make distribution of the retirement benefits.

Senate bill 173 will allow the Teachers' and Public Employees' Retirement Boards to recognize and implement a family law order directing the retirement system, on behalf of its member, to split future benefit payments for child support, indigent parent support, and spousal support.

A family law order may provide for payment to alternate payees as a percentage of the amount paid to a participant or as a fixed monthly amount, or the member may be directed to provide for payment of benefits to the alternate payee through the selection of a specific retirement option.

A family law order may not require a type or form of benefit, option or payment not available to the retirement system participant or for an amount or duration greater than that available to a participant. Payments cannot be made available to an alternate payee until the system member submits a valid application for a benefit and the benefit becomes payable.

This legislation was designed by the boards to have no actuarial cost to the retirement systems. It is anticipated that any administrative cost can be absorbed within existing budgets and staffing levels. While there will be some cost to review, approve, and implement the family law orders, these cost are not expected to be any greater than the current administrative effort required to explain to members, attorneys and the courts that we cannot make distributions to alternate payees.

We believe that this legislation will help safeguard the benefits and assets of our members and their families and ask for your support.

DATE 2-2-93

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: SB 173, SB224

Name	Representing	Bill No.	Check One	
			Support	Oppose
David Sean	Teachers' Retirement	SB ¹⁷³ 224	✓	
Hinda King	PERS	SB 173	✓	
Bob Lane	F&P	SB 224		
A. M. (Bud) Ellwell	W.S.S.M.	SB 224	✓	
TOM BILODEAU	M.E.A.	SB 173	✓	
Russell B Hill	MTLA	SB 224		✓
Kelly Jenkins	PERD	SB 173	✓	
GARY S. MARBUT	WRA, GOA, CCRKBA, MSSA, WMEGA, BSPSC	SB 224	✓	
MARK A. CRESS	PERD.	SB 173	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN RUSSELL FAGG**, on March 5, 1993, at
9:00 a.m.

ROLL CALL

Members Present:

Rep. Russ Fagg, Chairman (R)
Rep. Randy Vogel, Vice Chairman (R)
Rep. Ellen Bergman (R)
Rep. Jody Bird (D)
Rep. Vivian Brooke (D)
Rep. Dave Brown (D)
Rep. Bob Clark (R)
Rep. Duane Grimes (R)
Rep. Scott McCulloch (D)
Rep. Jim Rice (R)
Rep. Angela Russell (D)
Rep. Tim Sayles (R)
Rep. Liz Smith (R)
Rep. Bill Tash (R)
Rep. Howard Toole (D)
Rep. Karyl Winslow (R)
Rep. Diana Wyatt (D)

Members Excused: None

Members Absent: Rep. Tim Whalen (D)

Staff Present: John MacMaster, Legislative Council
Beth Miksche, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 173, SB 117
Executive Action: SB 194, SB 193, SB 125
SB 202, SB 117

HEARING ON SB 173

Opening Statement by Sponsor:

SEN. SUE BARTLETT, Senate District 23, Helena, said that SB 173
is intended to allow the Public Employment Retirement Board and

the Teachers Retirement Board to recognize and implement certain family law orders. Right now, neither retirement system is able to recognize court orders dealing with such things as divorces, indigent child support, child support, and spouse support. This bill will change that by making them subject to those court orders.

Proponents' Testimony:

David Senn, Director, Teachers Retirement System, presented written testimony. EXHIBIT 1

Tom Bilodeau, Montana Education Association, solicited support for SB 173.

Linda King, Public Employees Retirement Division (PERD), explained that most private plans are called Defined Congregation Plans, meaning that the value of the account is known on any given date because the value is money in the account. Montana's plans are different. Their benefits are defined by formula, so the amount of money that a member may have in the account bears little, if any, resemblance to the value of the benefit when they retire. The distinction is that a person cannot pay out a family law order before the actual retirement date on a retirement system member because until that actual date, the benefits aren't known.

Opponents' Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor: None

HEARING ON SB 117

Opening Statement by Sponsor:

SEN. MIKE HALLIGAN, Senate District 29, Missoula, said that SB 117 sets up a mediation process that is at the discretion of the judge only if the parties agree.

Proponents' Testimony:

Fay Bergman, mediation lawyer, Missoula, has done mediation for the last ten years, and she and REP. TOOLE served many times together on the Resolution Dispute Committee for the State Bar. She explained that mediation is uniquely suited for family disputes. Her only concern with the bill is section 4, Mediator

TESTIMONY - SB 173
Teachers' Retirement Board

Presented by: David L. Senn, Executive Director

"AN ACT PROVIDING FOR THE PAYMENT OF PUBLIC RETIREMENT BENEFITS TO ALTERNATE PAYEES PURSUANT TO FAMILY LAW ORDERS."

Currently a member's retirement benefits and contributions are unassignable either in law or equity and are not subject to execution, garnishment, attachment, or any other legal process. However, courts in domestic relations cases, such as divorces consider these benefits marital assets and income of the member and often try to make distribution of the retirement benefits.

Senate bill 173 will allow the Teachers' and Public Employees' Retirement Boards to recognize and implement a family law order directing the retirement system, on behalf of its member, to split future benefit payments for child support, indigent parent support, and spousal support.

A family law order may direct payment to an alternate payee as a percentage of the amount paid to a participant or as a fixed monthly amount, or the member may be directed to provide for payment of benefits to the alternate payee through the selection of a specific retirement option.

A family law order may not require a type or form of benefit, option or payment not available to the retirement system participant or for an amount or duration greater than that available to a participant. Payments cannot be made available to an alternate payee until the system member submits a valid application for a benefit and the benefit becomes payable.

This legislation was designed by the boards to have no actuarial cost to the retirement systems. It is anticipated that any administrative cost can be absorbed within existing budgets and staffing levels. While there will be some cost to review, approve, and implement the family law orders, these cost are not expected to be any greater than the current administrative effort required to explain to members, attorneys and the courts that we cannot make distributions to alternate payees.

We believe that this legislation will help safeguard the benefits and assets of our members and their families and ask for your support.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Judiciary COMMITTEE BILL NO. S.B. 173
DATE March 5, 1993 SPONSOR(S) S. Bartlett
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<u>David Sporn</u>	<u>TPS</u>	☒	☐
<u>TOM BILOWEATY</u>	<u>MEA</u>	☒	☐
<u>MARK CRESS</u>	<u>PERD</u>	☒	☐
<u>LINDA KING</u>	<u>PERD</u>	☒	☐

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

Discussion:

Mr. MacMaster explained a clerical amendment. On page 10, there was a word left out on line 1. After the word "order" on line 1, insert the word "is."

Motion/Vote: REP. TOOLE moved the clerical amendment. Motion carried unanimously.

Motion/Vote: REP. WHALEN MOVED SB 150 BE CONCURRED IN AS AMENDED. Motion carried unanimously 16-0. REPS. VOGEL and WINSLOW were excused from voting.

EXECUTIVE ACTION ON SB 173

Motion/Vote: REP. BROWN MOVED SB 173 BE CONCURRED IN. Motion carried 15-1 with REP. CLARK voting no. REPS. WINSLOW and VOGEL were excused.

EXECUTIVE ACTION ON SB 68

Motion: REP. BROWN MOVED SB 68 BE NOT CONCURRED IN.

Discussion:

REP. WHALEN opposes the do not pass motion and offered an amendment to include a sunset provision for another four years as two years is too short. He said the observation made by Russell Hill, Montana Trial Lawyers Association, is that this should be reviewed periodically, and this is a mechanism for doing that.

Motion: REP. GRIMES MADE A SUBSTITUTE MOTION THAT SB 68 BE CONCURRED IN.

Motion: REP. WHALEN moved an amendment to include a sunset provision for four years rather than two.

Discussion:

CHAIRMAN FAGG doesn't believe that amendment is necessary because the legislature can review the cap every time it meets. Eventually, the legislature will review the cap and decide to raise it.

Vote: REP. WHALEN'S amendment to include a sunset provision failed 11-6 with CHAIRMAN FAGG, REPS. VOGEL, BERGMAN, CLARK, GRIMES, MCCULLOCH, SAYLES, SMITH, TASH, WINSLOW, and WYATT voting no. REP. RICE was absent.

Vote: SB 68 BE CONCURRED IN. Motion carried 14-4 with REPS. BROWN, BROOKE, RUSSELL, and SMITH voting no.

HOUSE STANDING COMMITTEE REPORT

March 11, 1993

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Mr. Speaker: We, the committee on Judiciary report that
Senate Bill 173 (third reading copy -- blue) be concurred in.

Signed: Russ Fagg
Russ Fagg, Chair

Carried by: Rep. McCulloch

Committee Vote:
Yes 15, No 1.

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HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL VOTE

DATE 3-10-93 BILL NO. SB 173 NUMBER 16MOTION: SB 173 be concurred 15-1

NAME	AYE	NO
Rep. Russ Fagg, Chairman	✓	
Rep. Randy Vogel, Vice-Chair	Excused	
Rep. Dave Brown, Vice-Chair	✓	
Rep. Jodi Bird	✓	
Rep. Ellen Bergman	✓	
Rep. Vivian Brooke	✓	
Rep. Bob Clark		✓
Rep. Duane Grimes	✓	
Rep. Scott McCulloch	✓	
Rep. Jim Rice	✓	
Rep. Angela Russell	✓	
Rep. Tim Sayles	✓	
Rep. Liz Smith	✓	
Rep. Bill Tash	✓	
Rep. Howard Toole	✓	
Rep. Tim Whalen	✓	
Rep. Karyl Winslow	Excused	
Rep. Diana Wyatt	✓	